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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 WAYMAN ELLIS,

12 Plaintiff,

13 vs.

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15 MICHAEL J. ASTRUE,

16 Defendant.
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CASE NO. 10CV1451 JLS (BLM)

**ORDER: (1) ADOPTING REPORT
AND RECOMMENDATION;
(2) GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT; (3) DENYING
DEFENDANT'S CROSS-MOTION
FOR SUMMARY JUDGMENT**

(Doc. Nos. 10, 12, & 14.)

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19 Presently before the Court are Plaintiff's motion for summary judgment, (Doc. No. 10),
20 Defendant's cross-motion for summary judgment, (Doc. No. 12), and Magistrate Judge Major's
21 report and recommendation recommending that the Court grant in part and deny in part Plaintiff's
22 motion and deny Defendant's cross-motion. (Doc. No. 14.)

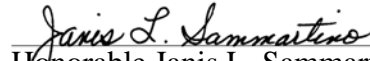
23 Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district court's
24 duties in connection with a magistrate judge's report and recommendation. The district court must
25 "make a de novo determination of those portions of the report to which objection is made," and
26 "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the
27 magistrate judge." 28 U.S.C. § 636(b)(1); *see also United States v. Raddatz*, 447 U.S. 667, 673–76
28 (1980); *United States v. Remsing*, 874 F.2d 614, 617 (9th Cir. 1989). However, in the absence of

1 timely objection, the Court “need only satisfy itself that there is no clear error on the face of the
2 record in order to accept the recommendation.” Fed. R. Civ. P. 72 advisory committee’s note
3 (citing *Campbell v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)).

4 Here, no party has filed a timely objection to Judge Major’s report and recommendation.
5 Having reviewed the report and recommendation, the Court finds that it is thorough, well
6 reasoned, and contains no clear error. Accordingly, the Court hereby (1) **ADOPTS** Magistrate
7 Judge Major’s report and recommendation, (2) **GRANTS IN PART AND DENIES IN PART**
8 Plaintiff’s motion for summary judgment, and (3) **DENIES** Defendant’s motion for summary
9 judgment. This Order concludes the litigation in this matter. The Clerk shall close the file.

10 **IT IS SO ORDERED.**

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12 DATED: June 22, 2011

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14 Honorable Janis L. Sammartino
15 United States District Judge
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